

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/07/2019

PRESENT

The Hon'ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD).No.8970 of 2019

Nammalwar ... Petitioner/Accused NO.3
Vs

State rep. by
The Inspector of Police,
Sipcot Police Station,
Thoothukudi District.
(Crime No.211 of 2019). ... Respondent/Complainant

For Petitioner : M/s.R.Anand,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.211 of 2019 on the file of
the respondent Police.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the
respondent police for the offences punishable under Sections 420,
465, 467 and 468 of IPC in Crime No.211 of 2019, seeks anticipatory
bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has
submitted that the petitioner has not purchased the property as
alleged in the FIR but, he entered into a registered sale agreement
with A2 vide Doc.No.1801/18 on the file of the Joint sub Registrar,
Thoothukudi. He further submitted that A1 claimed that he is the
owner of the property which is situated in Survey No.113/02
measuring to the extent of 1.30 acres and executed registered power

of attorney in favour of A2. He further submitted that the petitioner bona-fide entered a sale agreement with A3 and executed a registered sale agreement vide Doc.No.1801/18 and he has not purchased the property, but, in the FIR the defacto complainant purposely gave wrong particulars as if the petitioner has purchased the property under the Doc.No.1801/18 and he also produced a copy of the registered sale agreement dated 18.07.2019 (Doc.No.1801/18). Hence, he prayed for grant of anticipatory bail to the petitioner.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondent police has submitted that the property originally belongs to the defacto complainant's father by virtue of the sale deed dated 04.01.1965. After the death of the defacto complainant's father, the defacto complainant and his brothers have divided their family properties and they have been in separate possession and enjoyment of their respective shares. He further submitted that with a view to grab the property of the defacto complainant's family, A1 has executed a power of attorney in favour of A2 stating that he is the owner of the said property and based on the said power of attorney, A2 has executed a sale deed in favour of the petitioner herein vide Doc.No.1801 /18 and hence, he strongly opposed this petition.

5.A perusal of the xerox copy of the sale agreement produced by the learned counsel for the petitioner would show that the petitioner herein has not purchased the property. On the contrary he has entered into a sale agreement with A2 on 18.07.2018 for purchasing 75.681 cents in Survey No.113/2 of Sankaraperi Village and paid a sum of Rs.1,00,000/- as advance. Since he has not purchased the property and only an agreement entered by him, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain conditions.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.III, Thoothukudi, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m for a period of one week and thereafter, as and when required before the respondent police for interrogation.

<https://hcservices.ecourts.gov.in/hcservices/>

(iii) the petitioner shall not tamper with evidence or witness

either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
30/07/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE NO III, THOOTHUKUDI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT
- 3 THE INSPECTOR OF POLICE,
SIPCOT POLICE STATION, THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.R.ANAND Advocate SR.No.12562

WEB COPY

ORDER
IN
CRL OP(MD) No.8970 of 2019
Date :30/07/2019

vsg
JMN/PN/SAR-4/06.08.2019/3P-6C